

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SAMIR HADEED, MD and	:	No.: 3:15-cv-00022-KRG
JOHNSTOWN HEART AND	:	
VASCULAR CENTER, INC.,	:	
Plaintiffs,		:
		:
v.		:
ADVANCED VASCULAR	:	
RESOURCES OF JOHNSTOWN, LLC;	:	
AVR MANAGEMENT, LLC;	:	
WASHINGTON VASCULAR	:	
INSTITUTE, LLC; and MUBASHAR	:	
CHOUDRY, MD,	:	
Defendants.		:

**PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR JUDGMENT ON THE
PLEADINGS AND MOTION FOR SUMMARY JUDGMENT**

NOW COME, the Plaintiffs, Samir Hadeed, M.D. and Johnstown Heart and Vascular Center, Inc., by and through their Counsel, Spence, Custer, Saylor, Wolfe & Rose, LLC, and file this Response to Defendants' Motion for Judgment on the Pleadings and Motion for Summary Judgment:

1. The Plaintiffs, Samir Hadeed, M.D. and Johnstown Heart and Vascular Center, Inc. ("Plaintiffs"), hereby incorporate by reference Plaintiffs' Response to Defendants' Statement of Undisputed Material Facts in Support of Defendants' Motion for Summary Judgment on Plaintiffs' Complaint ("Response to Defendants' Facts") and Plaintiffs' Brief in Opposition to Defendants' Motion for Judgment on the Pleadings and

Motion for Summary Judgment ("Brief in Opposition"), which have been filed simultaneously along with this Response.

2. Plaintiffs consent to the dismissal of Count V of the Complaint – Fraudulent Misrepresentation. Plaintiffs further consent to the dismissal of Defendant Mubashar Choudry, M.D. from this action with the understanding that Plaintiff Samir Hadeed, M.D. will be dismissed from this action for the same reasons proffered by Defendants for the dismissal of Dr. Choudry.

3. For the reasons set forth more fully within Plaintiffs' Response to Defendants' Facts and Plaintiffs' Brief in Opposition, incorporated herein by reference, the pleadings, depositions and all evidence of record establish that Defendants' Motion for Judgment on the Pleadings and Motion for Summary Judgment should be denied, except as noted in Paragraph 2 of this Response.

WHEREFORE, the Plaintiffs, Samir Hadeed, M.D. and Johnstown Heart and Vascular Center, Inc., respectfully request that this Honorable Court deny Defendants' Motion for Judgment on the Pleadings and Motion for Summary Judgment, as set forth more fully in the Order of Court attached hereto.

Respectfully submitted,

SPENCE, CUSTER, SAYLOR, WOLFE & ROSE, LLC

/s/ Ronald P. Carnevali, Jr.

Ronald P. Carnevali, Jr., Esquire

I.D. No. 47733

rcarnevali@spencecuster.com

Toby D. McIlwain, Esquire

I.D. No. 316074

tmcilwain@spencecuster.com

Attorneys for Plaintiffs

1067 Menoher Boulevard

Johnstown, Pennsylvania 15905

(814) 536-0735 (telephone)

(814) 539-1423 (facsimile)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 7th day of November, 2016, a certified true and correct copy of the foregoing Response to Defendants' Motion for Judgment on the Pleadings and Motion for Summary Judgment was forwarded via ECF filing to the following persons:

George M. Medved, Esquire
Jayme L. Butcher, Esquire
Julia M. Tedjeske, Esquire
Blank Rome, LLP
501 Grant Street, Suite 850
Pittsburgh, Pennsylvania 15219

SPENCE, CUSTER, SAYLOR, WOLFE & ROSE, LLC

/s/ Ronald P. Carnevali, Jr.
Ronald P. Carnevali, Jr., Esquire
I.D. No. 47733
rcarnevali@spencecuster.com
Toby D. McIlwain, Esquire
I.D. No. 316074
tmcilwain@spencecuster.com
Attorneys for Plaintiffs

1067 Menoher Boulevard
Johnstown, Pennsylvania 15905
(814) 536-0735 (telephone)
(814) 539-1423 (facsimile)